

Notice of Allowability

Application No.

10/043,539

Examiner

Khatol S Shahnan-Shah

Applicant(s)

CHEUNG ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment of 7/7/2004.
2. ☒ The allowed claim(s) is/are 28-31 and renumbered 1-4 respectively.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 3/18/2004.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Attachment to Notice of Allowance

1. Applicants' amendment of 7/7/2004 is acknowledged. Claims 1-27 have been canceled. New claims 28-31 have been added. Specification pages 1, 2, 3, 22 and 26 been amended.
2. Claims 28-31 are pending and under consideration.

Objections Withdrawn

3. Objections to the specification made in paragraph 5 of the office action mailed 3/18/2004 is withdrawn in view of applicants' amendments.

Rejections Moot

4. Rejection of claims 22-25 under 35 112 first paragraph made in paragraph 7 of the office action mailed 3/18/2004 is moot in view of cancellation of said claims.
5. Rejection of claims 22-25 under 35 112 first paragraph made in paragraph 8 of the office action mailed 3/18/2004 is moot in view of cancellation of said claims.

Note: The rejection was in regard to the deposit of *Staphylococcus aureus* strain RN6390, which has been used for the completion of the instant invention. However, applicants' arguments in regard to the fact that the Sar A strain RN6390 is clearly accessible to those skill in the art as witnessed by numerous studies and evidenced by U.S. Patent 5,976,792 is persuasive and a deposit therefore will not be required when examining the newly added claims 28-31.

6. Rejection of claims 22-25 under 35 112-second paragraph made in paragraph 10 of the office action mailed 3/18/2004 is moot in view of cancellation of said claims.
7. Rejection of claims 22-25 under 35 102 (b) made in paragraph 12 of the office action mailed 3/18/2004 is moot in view of cancellation of said claims.

Allowable Subject Matter

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8. Claims 28-31 are allowed. Claims are renumbered 1-4 respectively.

The following is an examiner's statement of reasons for allowance:

Claims are drawn to a method of screening for lead compounds, which inhibit the expression of virulence determinants in *staphylococcus* comprising:

obtaining Sar R analogs;

contacting said analogs with Sar A protein; and

determining whether said analogs form a heterodimer with Sar A protein wherein the formation of a heterodimer is indicative of a lead compound, which inhibits the expression of virulence determinants in *staphylococcus*.

The prior art fails to teach the particular method steps and compounds recited in the claims.

Note: The examiner interprets the term "lead compound" based on the applicants' description in the specification pages 12 and 13 as a "candidate" or "suspected" compound developed from structural analysis of Sar R. Accordingly the term "lead compound" does not have any relationship to the "Metalic Lead".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Drawings

9. Objection to the drawings made in paragraph 4 of the office action mailed 3/18/2004 is maintained. No corrected drawings have been submitted.

The application having been allowed, formal drawings are required in response to this Office

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Action.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khatol S Shahnan-Shah whose telephone number is (571)-272-0863. The examiner can normally be reached on 7:30am-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F Smith can be reached on (571)-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

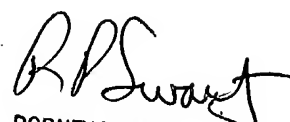


Khatol Shahnan-Shah, BS, Pharm, MS

Biotechnology Patent Examiner

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October 18, 2004



RODNEY P SWARTZ, PH.D
PRIMARY EXAMINER